

CHAMBERS OF THE HONORABLE HAROLD BAER, JR.  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
500 Pearl Street  
New York, New York 10007

Fax Transmission from (212) 805-7901

TO: **Darren Wayne Saunders, Esq.**  
**Mark I. Peroff, Esq.**  
**Joanna Andrea Diakos, Esq.**  
Kirkpatrick & Lockhart Preston Gates Ellis, LLP  
Fax: (212) 536-3901

**Ira Daniel Tokayer, Esq.**  
Law Offices of Ira Daniel Tokayer, Esq.  
Fax: (212) 695-5450

FROM: Chambers of Hon. Harold Baer, Jr.

DATE: July 11, 2008

RE: **Cerveceria Modelo, S.A. de C.V., et al. v. USPA Accessories LLC,**  
No. 07 Civ. 7998 (HB)

NO. OF PAGES, INCLUDING THIS PAGE: 2

This is to confirm that the civil jury trial of this action will begin on **Monday, August 25, 2008 at 9:30 a.m.** The trial is currently scheduled for four days. This schedule is subject to change, and if any changes are made, we will notify you accordingly. Keep in mind that you chose August 2008 as your trial month and the Court has endeavored to follow your choice.

This will also confirm that the following materials must be submitted no later than **Monday, August 11, 2008**: (1) joint pre-trial order; (2) requests to charge; (3) proposed voir dire questions; (4) proposed verdict sheet; (5) **fully briefed** motions in limine, if any; (6) hard copies of all exhibits to be introduced at trial, **in a binder, tabbed accordingly**; (7) any objections to such exhibits, together with a brief response to any such objections, presented in a table as formatted below<sup>1</sup>; (8) any

<sup>1</sup> **Plaintiffs' Exhibits**

<u>Ex.</u>	<u>Description</u>	<u>Objection</u>	<u>Response</u>
P-1			

**Defendant's Exhibits**

<u>Ex.</u>	<u>Description</u>	<u>Objection</u>	<u>Response</u>
D-A			

objections to deposition designations, together with a brief response to any such objections. To ensure expedited review, these materials should be delivered directly to Chambers. **In addition, you must send a Word version of your exhibit lists and the exhibits table electronically to Anna Gercas, the law clerk assigned to this case, at [anna\\_gercas@nysd.uscourts.gov](mailto:anna_gercas@nysd.uscourts.gov).**

Please call Chambers with any questions regarding the submission of these pre-trial materials and be sure to advise Chambers immediately of any resolution of this matter. Only a stipulation of dismissal delivered to Chambers will absolve you from appearing for trial and take the matter off the trial calendar.

**IF THERE ARE ANY PROBLEMS  
PLEASE CALL: (212) 805-0184**

## Re: Cervceria Modelo, S.A. de C.V., et al. v. USPA Accessories LLC d/b/a Concept One Accessories

**From:** Anna\_Gercas@nysd.uscourts.gov  
**To:** imtoke@mindspring.com  
**Cc:** dsaunders@klnq.com, joanna.diakos@klgates.com  
**Subject:** Re: Cervceria Modelo, S.A. de C.V., et al. v. USPA Accessories LLC d/b/a Concept One Accessories  
**Date:** Jul 22, 2008 12:10 PM

Dear Counsel:

Although we will speak at 4, I wanted to let you know immediately that I was just able to talk with Judge Baer, who is out of town. As I mentioned previously, the Judge's schedule over the next couple months is fuller than usual, with numerous civil and criminal proceedings and a number of personal commitments. Please accept my apologies: as it turns out, the Judge is not able or willing to change the date of your trial from the week of August 25, due to other proceedings and commitments, some of which had not yet been placed on his calendar. When we initially received the letter from the defendants' counsel last week, I did explain to the Judge the situation involving the trade show and resulting difficulties, but unfortunately it appears that it will not be possible to change the trial week. Unless I hear otherwise from you, I will expect to continue with our short telephone conference at 4. Thank you.

Best regards,  
Anna Gercas

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Anna Gercas, Esq.  
Law Clerk to the Honorable Harold Baer Jr.  
Tel: (212) 805-0184  
Fax: (212) 805-7901

imtoke@mindspring  
.com

07/21/2008 06:48  
PM

Please respond to

Anna\_Gercas@nysd.uscourts.gov,  
dsaunders@klnq.com,  
joanna.diakos@klgates.com

To

cc

imtoke@mindspring  
.com

Subject  
Re: Cervceria Modelo, S.A. de  
C.V., et al. v. USPA Accessories  
LLC d/b/a Concept One Accessories

Dear Ms. Gercas,

Counsel are available tomorrow at 4, which hopefully will give us sufficient time to confer with our clients with respect to the alternative dates in your email. Please let us know in the event this time does not work for you.

Thank you for your consideration.

Ira Tokayer  
212.695.5250

-----Original Message-----

>From: Anna\_Gercas@nysd.uscourts.gov  
>Sent: Jul 21, 2008 5:09 PM  
>To: dsaunders@kling.com, joanna.diakos@klgates.com, imtoke@mindspring.com  
>Subject: Cervceria Modelo, S.A. de C.V., et al. v. USPA Accessories LLC  
d/b/a Concept One Accessories  
>  
>  
>Dear Counsel:  
>  
>Please accept our apologies for this late reply to the July 14, 2008  
letter  
>from Mr. Tokayer in the above-referenced case. As Judge Baer has an  
>extremely busy -- and frequently shifting -- trial calendar for the months  
>of August and September, it has required some time for us to determine  
>whether the trial of this matter could be rescheduled. As you know, and  
as  
>Judge Baer informed you during your pretrial conference, the trial month  
>that you chose may not be changed except under extreme circumstances. To



>maintain your chosen August 2008 trial month, we may be able to move your  
>trial to the week of August 18. Please note that the Thursday of that  
>week, August 21, is a conference day, and so the trial would have to take  
>place on Monday-Wednesday, August 18-20, and conclude on Friday, August  
22.

>If all parties consent, I could reschedule the trial to the week of August  
>18 immediately.

>

>Alternatively, it appears that the week of September 15 may be available,  
>although, again, the Thursday of that week is a conference day and so the  
>trial would have to take place Monday-Wednesday and conclude on Friday. I  
>also am not sure that the Judge will be amenable to this schedule. As I  
>believe I have indicated to Mr. Tokayer, the Judge is out of the office  
>until August 4, and scheduling a telephone conference with him to discuss  
>scheduling may be difficult, though likely not impossible.

>

>I think perhaps the best course of action at this point would be for me to  
>speak briefly with both counsel, particularly as I do not believe we have  
>heard from the plaintiffs' counsel on this matter. Is there a time  
>tomorrow (Tuesday) that we could speak briefly? As Judge Baer's Chambers  
>lack conferencing capabilities, you would need to call each other and then  
>conference me in. I am available all day.

>

>Thank you, and I trust we will be able to work out a schedule that is  
>amenable to the parties and the Judge.

>

>Best regards,

>Anna Gercas

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>Anna Gercas, Esq.

>Law Clerk to the Honorable Harold Baer Jr.

>Tel: (212) 805-0184

>Fax: (212) 805-7901

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